IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-10-2006

CORAM

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

W.P.No.10843 of 2006
and
WPMP No.12279 of 2006

C.Govindarajan .. Petitioner

vs

The Joint Director and Additional
Director
O/o Directorate of Ex. Servicemen's
Welfare
No.22, Raja Muthaiah Salai
Chennai 600 003. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned suspension order made in R.C.No.28925/2003/E.5 dated 6.11.2003 on the file of the respondent and quash the same and to direct the respondent to reinstate the petitioner in service.

For Petitioner : Mr.S.Kumaradevan
For Respondents : Mr.A.Edwin Prabhakar
Government Advocate

ORDER

The prayer in the writ petitioner is for a writ of certiorarified mandamus to call for the records of the respondent dated 6.11.2003 and quash the same.

2.The case of the petitioner is that he was working as a Welfare Organiser in the Office of the Assistant Director of the District Ex. Servicemen's Welfare, Salem. While he was working so, by the proceedings dated 6.11.2003, the Joint Director and Additional Director, In charge of the Directorate of Ex. Servicemen's Welfare, has passed an order under Rule 17(e) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, placing the petitioner under suspension on the ground that he was arrested on 30.10.2003 and remanded to judicial custody till 13.11.2003, and the complaint against the petitioner of a criminal offence, is under investigation, and it is necessary in the public interest to place him under suspension from service with effect from 30.10.2003 until further orders. That order is put in issue in the present writ petition on the premise that in the criminal case, charge sheet has

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been filed, and the matter is pending before the Judicial Magistrate. The petitioner is out of service from 6.11.2003 onwards. The petitioner's case can be reviewed by the respondent. The reason for placing him under suspension is that he should not hamper the smooth flow of the departmental proceedings. As a matter of fact, no departmental proceedings has been initiated against him. Hence, there is no warranting reason to keep the petitioner under suspension for more than three years.

3.I have heard the learned Counsel for the petitioner and perused the material on record.

4.From the impugned order, it is very clear that Rule 17 of the Tamil Nadu Civil Supplies (Discipline & Appeal) Rules is applicable to the petitioner. Rule 17(e) gives powers to the respondent to place the petitioner under suspension, if the petitioner is arrested and remained in judicial custody for more than 48 hours. In this case, it is an admitted fact that the petitioner was arrested on 30.10.2003, and he was in judicial custody till 13.11.2003. Hence, as per the Rules and in particular, Rule 17(e) of the Tamil Nadu Civil Supplies (Discipline & Appeal) Rules, the respondent has every right to place the petitioner under suspension. The non-initiation of any departmental proceedings pursuant to the issuance of the suspension order dated 6.11.2003, would not in any way advance the case of the petitioner for quashing the suspension order. If at all the petitioner is having any Government Order in his favour for reviewing the case of the petitioner, after passing of six months or some other period, it is open to the petitioner to approach the respondent to have his case reviewed by them by following the Government Order or any other precedent which the petitioner has in his favour.

5.With the above observation, finding no merits in the case of the petitioner, this writ petition is dismissed. No costs. Consequently, WPMP is also dismissed.

nsv/

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:
The Joint Director and Additional Director
O/o Directorate of Ex. Servicemen's Welfare
No.22, Raja Muthaiah Salai
Chennai 600 003.
1 cc to Government Pleader, SR.48196
1 cc to Mr.S.Kumaradevan, Advocate, SR.47997
rl (co)

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